

taxpayer or is inconsistent with the taxpayer's knowledge concerning the amount and rate of return of the payor's obligation. In the case of an understatement that is related to an item on the return of a pass-through entity (as defined in §1.6661-4(e)), the good faith or lack of good faith of the entity generally will be imputed to the taxpayer that has the understatement. Any good faith imputed to the taxpayer under the preceding sentence, however, may be refuted by other factors indicating lack of good faith on the part of the taxpayer.

(c) *Automatic waiver; qualified amended returns*—(1) *In general*. If the taxpayer shows an additional amount of tax or makes adequate disclosure with respect to an item in the manner prescribed in §1.6661-4 on a qualified amended return, the Commissioner will waive any penalty that would not have been imposed if the additional amount of tax had been shown or the adequate disclosure had been made on the return of the taxpayer. Thus, the entire penalty will be waived if there would not have been a substantial understatement (as defined in paragraph (b) of §1.6661-2) had the taxpayer shown the additional amount of tax or made the adequate disclosure on the taxpayer's original return.

(2) *Qualified amended return*. For purposes of this paragraph, a "qualified amended return" is an amended return, so-called, or a timely request for an administrative adjustment under section 6227, filed after the due date of the return and before the earlier of—

(i) The time the taxpayer is first contacted by the Internal Revenue Service concerning an examination of the return; or

(ii) The time any person described in section 6700(a) (relating to the penalty for promoting abusive tax shelters) is first contacted by the Internal Revenue Service concerning an examination of an activity described in section 6700(a) with respect to which the taxpayer claimed any tax benefit on the return directly or indirectly through the entity, plan, or arrangement described in section 6700(a)(1)(A).

(3) *Pass-through entities*. For purposes of paragraph (c)(1) of this section, no account is taken of an additional

amount of tax shown or disclosure made with respect to an item attributable to a pass-through entity (as defined in §1.6661-4(e)), unless the qualified amended return is filed by the taxpayer before the date such pass-through entity is first contacted by the Internal Revenue Service concerning an examination of the return of which the item is attributable.

(4) *Special rule*. The Commissioner may by revenue procedure prescribe the manner in which this section may apply to particular classes of taxpayers.

[T.D. 8017, 50 FR 12018, Mar. 27, 1985]

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[T.D. 8381, 56 FR 67497, Dec. 31, 1991; T.D. 8381, 57 FR 6165, Feb. 20, 1992, as amended by T.D. 8519, 59 FR 4794, Feb. 2, 1994; T.D. 8533, 59 FR 12548, Mar. 17, 1994; T.D. 8551, 59 FR 35031, July 8, 1994; T.D. 8617, 60 FR 45663, Sept. 1, 1995; T.D. 8656, 61 FR 4879, Feb. 9, 1996; T.D. 8656, 61 FR 14248, Apr. 1, 1996; T.D. 8790, 63 FR 66434, Dec. 2, 1998]

### § 1.6662-1 Overview of the accuracy-related penalty.

Section 6662 imposes an accuracy-related penalty on any portion of an underpayment of tax required to be shown on a return that is attributable to one or more of the following:

- (a) Negligence or disregard of rules or regulations;
- (b) Any substantial understatement of income tax;
- (c) Any substantial valuation misstatement under chapter 1;
- (d) Any substantial overstatement of pension liabilities; or
- (e) Any substantial estate or gift tax valuation understatement.

Sections 1.6662-1 through 1.6662-5 address only the first three components of the accuracy-related penalty, *i.e.*, the penalties for negligence or disregard of rules or regulations, substantial understatements of income tax, and substantial (or gross) valuation misstatements under chapter 1. The penalties for disregard of rules or regulations and for a substantial understatement of income tax may be avoided by adequately disclosing certain information as provided in § 1.6662-3(c) and §§ 1.6662-4(e) and (f), respectively. The penalties for negligence and for a substantial (or gross) valuation misstatement under chapter 1 may not be avoided by disclosure. No accuracy-related penalty may be imposed on any portion of an underpayment if there was reasonable cause for, and the taxpayer acted in good faith with respect to, such portion. The reasonable cause and good faith exception to the accuracy-related penalty is set forth in § 1.6664-4.

[T.D. 8381, 56 FR 67498, Dec. 31, 1991, as amended by T.D. 8617, 60 FR 45664, Sept. 1, 1995]

### § 1.6662-2 Accuracy-related penalty.

(a) *In general.* Section 6662(a) imposes an accuracy-related penalty on any portion of an underpayment of tax (as defined in section 6664(a) and § 1.6664-2) required to be shown on a return if such portion is attributable to one or more of the following types of misconduct:

- (1) Negligence or disregard of rules or regulations (see § 1.6662-3);
- (2) Any substantial understatement of income tax (see § 1.6662-4); or
- (3) Any substantial (or gross) valuation misstatement under chapter 1 (“substantial valuation misstatement” or “gross valuation misstatement”), provided the applicable dollar limitation set forth in section 6662(e)(2) is satisfied (see § 1.6662-5).

The accuracy-related penalty applies only in cases in which a return of tax is filed, except that the penalty does not apply in the case of a return prepared by the Secretary under the authority of section 6020(b). The accuracy-related penalty under section 6662 and the penalty under section 6651 for failure to timely file a return of tax